

Application Number 10/598095
Response to the Office Action dated 12/28/2007

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REMARKS

Favorable reconsideration of this application is requested in view of the following remarks.

Non-elected claims 34-42 have been canceled without prejudice.

Applicants respectfully note that the original claims of the international application were amended under PCT Article 34. A translation of the Article 34 Amendment was filed with the national stage entry, and therefore, the claims as amended should have been considered in issuing the present Office Action. For convenience, an additional copy of the translation of the Amendment is attached hereto. The above claim listing is based on the Article 34 Amendment.

Claim 1 has been amended to include a composition formula of a semiconductor in a template as supported by the specification at page 11, para. 30 and original claim 15.

Claim 15 has been amended editorially.

Claims 2, 8, 11, 12, and 33 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse this rejection.

Claim 2 is correctly structured as a method claim using a specific apparatus. Claim 2 includes features of the apparatus and conditions when using the apparatus, but clearly recites method steps. The apparatus aspects easily are recognized as being recited for their relevance to the method steps. Therefore, claim 2 is a proper method claim, and accordingly, the rejection of claims 2, 8, 11, 12, and 33 should be withdrawn. Applicants do not concede the correctness of the rejection.

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Claims 1-14 and 16-19 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 8, 3-10, 17, 18, 20, 24, 27, 28, 30, and 37 of copending Application No. 10/549,494, Sasaki et al. (US Patent Application Publication No. 2006/016917). Applicants respectfully traverse this rejection.

The claims of '494 do not require a composition formula of a semiconductor layer of a template: $\text{Al}_u\text{Ga}_v\text{In}_{1-u-v}\text{N}$ ($0 \leq u \leq 1$, $0 \leq v \leq 1$, and $0 \leq u + v \leq 1$). Therefore, independent claim 1 is distinguished from the claimed subject matter of '494. Accordingly, the rejection of claims 1-14 and 16-19 should be withdrawn.

In view of the above, Applicants request reconsideration of the application in the form of a Notice of Allowance.

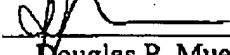


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DPM/my/ad

Respectfully submitted,

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